

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 80****[EPA-HQ-OAR-2005-0161; FRL-9147-7]****RIN 2060-AQ31****Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend certain of the Renewable Fuel Standard program regulations published on March 26, 2010, that are scheduled to take effect on July 1, 2010 (the "RFS2 regulations"). Following publication of the RFS2 regulations, promulgated in response to the requirements of the Energy Independence and Security Act of 2007, EPA discovered some technical errors and areas within the final RFS2 regulations that could benefit from clarification or modification. This proposed rule would amend the RFS2 regulations to make the appropriate corrections, clarifications, and modifications.

**DATES:** Written comments must be received by June 9, 2010. A request for a public hearing must be received by May 25, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2005-0161, by mail to Air and Radiation Docket, Docket No. EPA-HQ-OAR-2005-0161, Environmental Protection Agency, Mail Code: 6406J, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of 2 copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Megan Bracht, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, Mail Code: 6405J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., 20460; *telephone number:* (202) 343-9473; *fax number:* (202) 343-2802; *e-mail address:* bracht.megan@epa.gov.

**SUPPLEMENTARY INFORMATION:****I. Why is EPA issuing this proposed rule?**

This document proposes to amend the Renewable Fuel Standard program regulations that were published on March 26, 2010, at 75 FR 14670 (the "RFS2 regulations"). We have published a direct final rule which amends the Renewable Fuel Standard program requirements in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate

no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment or request for public hearing, we will not take further action on this proposed rule. If we receive adverse comment or a request for public hearing on a distinct provision of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing, and those provisions will not take effect. The provisions that are not withdrawn will become effective on the date set out in the direct final rule, notwithstanding adverse comment or a request for hearing on any other provision. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

**II. Does this action apply to me?**

Entities potentially affected by this action include those involved with the production, distribution and sale of transportation fuels, including gasoline and diesel fuel, or renewable fuels such as ethanol and biodiesel. Regulated categories and entities affected by this action include:

Category	NAICS codes <sup>a</sup>	SIC codes <sup>b</sup>	Examples of potentially regulated parties
Industry .....	324110	2911	Petroleum refiners, importers.
Industry .....	325193	2869	Ethyl alcohol manufacturers.
Industry .....	325199	2869	Other basic organic chemical manufacturers.
Industry .....	424690	5169	Chemical and allied products merchant wholesalers.
Industry .....	424710	5171	Petroleum bulk stations and terminals.
Industry .....	424720	5172	Petroleum and petroleum products merchant wholesalers.
Industry .....	454319	5989	Other fuel dealers.

<sup>a</sup> North American Industry Classification System (NAICS).

<sup>b</sup> Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of part 80, subparts D, E and F of title 40 of the Code of Federal Regulations. If you have any

questions regarding applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section above.

**III. What should I consider as I prepare my comments for EPA?**

**A. Submitting CBI.** Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then

identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

**B. Tips for Preparing Your Comments.** When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- Make sure to submit your comments by the comment period deadline identified.

**C. Docket Copying Costs.** You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

#### **IV. Renewable Fuel Standard (RFS2) Program Amendments**

EPA is proposing to amend certain of the Renewable Fuel Standard regulations published on March 26, 2010, at 75 FR 14670 (the “RFS2 regulations”) that are scheduled to take effect on July 1, 2010. Following publication of the RFS2 regulations, EPA discovered some technical errors and areas that could benefit from clarification or modification. As a result, we are proposing to make the following amendments to the RFS2 regulations at 40 CFR part 80, subpart M.

##### **A. Summary of Amendments**

Many of the amendments that we are proposing to amend would address grammatical or typographical errors or provide clarification of language contained in the final RFS2 regulations. As such, these items are listed in the “RFS2 Program Amendments” table, which can be found in the direct final rule that we have published in the “Rules and Regulations” section of this **Federal Register**. A few amendments are being proposed in order to correct regulatory language that inadvertently misrepresented our intent as reflected in the preamble to the final RFS2 regulations. We have provided additional explanation for several of these proposed amendments in the sections IV.B through IV.M below. For

additional information and the text of the proposed regulatory changes, see the direct final rule which is located in the Rules section of this **Federal Register**.

##### **B. Advanced Technologies for Renewable Fuel Pathways**

The final RFS2 rule includes two corn ethanol pathways in Table 1 of § 80.1426 that require the use of advanced technologies at the production facility as a prerequisite to the generation of RINs. The advanced technologies are listed in Table 2 of § 80.1426. However, only three of these advanced technologies are explicitly defined in § 80.1401. To clarify our intent with regard to implementation of these advanced technologies, we are proposing to create new definitions for membrane separation and raw starch hydrolysis. We are also proposing to replace the existing definition of “fractionation of feedstocks” with a definition for “corn oil fractionation” to be more consistent with the terminology used in Table 2 of § 80.1426. Finally, we propose to modify the definition of “combined heat and power (CHP)” and clarify in Table 2 of § 80.1426 the degree to which it, as well as the other advanced technologies, must be implemented in order to represent a valid advanced technology for the generation of RINs.

##### **C. Baseline Production Volume for All Renewable Fuel Production Facilities**

Section 80.1450(b)(1)(v) currently requires information pertinent to facilities described in § 80.1403(c) and (d), *i.e.*, those facilities for which the renewable fuel would be exempted (“grandfathered”) from the requirement of 20 percent GHG emission reduction. We propose to modify § 80.1450(b)(1)(v) to require all renewable fuel producers to include information on their facilities’ baseline volume when registering for RFS2 in order for EPA to verify renewable fuel production volumes and RIN generation reports. Specifically, all owners and operators of renewable fuel facilities, including those described in § 80.1403(c) and (d), would be required to submit copies of their most recent air permits. In addition, the facilities described in § 80.1403(c) would be required to submit copies of air permits issued no later than December 19, 2007; those described in § 80.1403(d) would be required to submit copies of air permits issued no later than December 31, 2009. Thus, for those facilities we would have information on permitted capacity for 2007 and 2009 from which baseline volumes would be determined. We would also have the most recent

permitted capacity for those facilities. In case of discrepancies in permitted capacity between the most recent permits and those representing operation in 2007 and 2009, EPA would be able to ask for additional information. The information required to establish when construction of the grandfathered facilities commenced would be contained in § 80.1450(b)(vi), since § 80.1450(b)(v) would address only baseline volume.

##### **D. Foreign Ethanol Producers**

We propose to add a new definition of “foreign ethanol producer” to § 80.1401 that describes foreign producers that produce ethanol for use in transportation fuel, heating oil or jet fuel but who do not add denaturant to their product, and therefore do not technically produce “renewable fuel” as defined in our regulations. We also propose to add amendments to the registration provisions at § 80.1450(b) to require the registration of these parties if the ethanol they produce is used to make renewable fuel for which RINs are ultimately generated. The result of these changes would be to require foreign ethanol facilities that produce ethanol that ultimately becomes part of a renewable fuel for which RINs are generated to provide EPA the same registration information as foreign renewable fuel facilities that export their product to the United States. In both cases the proposed registration information is important for enforcement purposes, including verifying the use of renewable biomass as feedstock and the assignment of appropriate D codes. The changes proposed today conform the regulations to EPA’s intent at the time the RFS2 regulations were issued.

##### **E. Permitted Capacity**

EPA is proposing to modify the definition of “permitted capacity” to reference the specific permits, by year, which are to be used in establishing the permitted capacity of facilities claiming the exemptions specified in § 80.1403(c) and (d). Permitted capacity is one means by which “baseline volume” is determined for purposes of these exemptions. The registration provisions in the existing regulations at § 80.1450(b)(1)(v)(C) accurately identify the permits (by year) that are relevant in establishing “permitted capacity” for facilities claiming the exemptions in § 80.1403(c) and (d), but EPA neglected to include comparable references in the existing definition of “permitted capacity.” Today’s proposed amendments would help to clarify the regulations by adding comparable

references in the definition of “permitted capacity.”

#### *F. Definition for “Naphtha”*

The final RFS2 rule includes the term naphtha in Table 1 to § 80.1426 in the form of both “naphtha” and “cellulosic naphtha.” The final rule also includes a definition of naphtha in § 80.1401 indicating that naphtha must be a renewable fuel or fuel blending component. Since naphtha is generally not used as transportation fuel in its neat form, requiring naphtha to be renewable fuel could cause confusion. Therefore, we are proposing to modify the definition of naphtha to indicate that it must be a blendstock or fuel blending component.

#### *G. Grandfathering Exemption for Renewable Fuel Production Facilities*

Section 80.1403(c)(2) requires as a condition of the exemption from the 20 percent greenhouse gas (GHG) emission reduction that construction of the renewable fuel facility be completed within 36 months of commencement. In the proposed RFS2 rule, however, the regulatory language required completion of construction within 36 months of EISA enactment, which would be December 19, 2010. In preparing the final rulemaking package we mistakenly removed the proposed language. Today’s proposed amendments provide that construction must be completed within 36 months of December 19, 2007, for facilities that commenced construction prior to that date. For facilities that commenced construction after that date, as described in § 80.1403(d), the requirement would remain that construction must be completed within three years of commencement of construction.

#### *H. Use of RFS1 RINs for RFS2 Compliance in 2010*

The RFS2 final rule allows RFS1 RINs to be used for compliance purposes under RFS2. With regard to biodiesel and renewable diesel, the regulations at § 80.1427(a)(4)(i) indicate that RFS1 RINs with a D code of 2 and RR code of 15 or 17 may be deemed equivalent to an RFS2 RIN with a D code of 4 representing biomass-based diesel. The RR codes of 15 and 17 were included in this provision because they are indicative of biodiesel and renewable diesel, respectively, as described in the assignment of Equivalence Values in § 80.1415. However, EPA also approved an Equivalence Value of 1.6 for a particular renewable fuel diesel substitute that is compositionally similar to biodiesel. Therefore, we are proposing to modify the RFS1/RFS2

transition provisions at § 80.1427(a)(4)(i) to also allow RFS1 RINs with a D code of 2 and RR code of 16 to be deemed equivalent to an RFS2 RIN with a D code of 4.

#### *I. Engineering Review*

We propose to amend § 80.1450(b)(2)(i)(A) and § 80.1450(b)(2)(i)(B) to clarify the types of professional engineers who may qualify to conduct the third-party engineering review for renewable fuel facilities located in the United States or in a foreign country. The original requirements in the final regulations in § 80.1450(b)(2)(i)(A) state that domestic renewable fuel production facilities must have an engineering review conducted by a “Professional Chemical Engineer.” For foreign facilities, § 80.1450(b)(2)(i)(B) provides that the review should be conducted by “a licensed professional engineer or foreign equivalent who works in the chemical engineering field.” EPA interprets these provisions similarly but is proposing to amend the regulations to clarify that the requirements are the same. For both domestic and foreign facilities the third party engineering review would be conducted by a professional engineer (or foreign equivalent) who works in the chemical engineering field. EPA views renewable fuel production to fall generally within the chemical engineering field, and is proposing to amend the regulations to clarify that professional work experience related to renewable fuel production will satisfy this requirement. As required in § 80.1450(b)(2)(ii)(E), the professional engineer would provide to EPA documentation of their qualifications to conduct the engineering review, including but not limited to proof of a license as a professional engineer and relevant work experience. Additional language is proposed to clarify that the professional engineer must also be an independent third-party, which would be further defined in § 80.1450(b)(2)(ii), to qualify to conduct the engineering review.

#### *J. Process Heat Fuel Supply Plan*

We are proposing to move the requirements for the process heat fuel supply plan from § 80.1450(b)(3) and to insert them under § 80.1450(b)(1)(iv) to minimize duplicative requirements and to provide clear instruction that the process heat fuel supply plan is required to be submitted as part of registration and is subject to verification in the engineer review required in § 80.1450(b)(2).

The requirements for the process heat fuel supply plan would be divided into

two subparts in these proposed amendments. Section 80.1450(b)(1)(iv)(A) would be applicable to all renewable fuel producers and require submissions of information on any process heat fuel that is used at a renewable fuel facility. Examples of process heat fuel include biomass, biogas, coal, and natural gas. The information proposed to be submitted on the type of process heat fuel and its supply source would help EPA determine if a renewable fuel facility qualifies as a grandfathered facility pursuant to § 80.1403(d) and help verify a producer’s fuel pathway pursuant to Table 1 to § 80.1426.

The information proposed to be submitted under § 80.1450(b)(1)(iv)(B) for renewable fuel producers using biogas as process heat fuel would help EPA verify the contractual pathway of the biogas from the supplier to the renewable fuel facility for the purposes of confirming the applicable fuel pathway pursuant to Table 1 to § 80.1426 and to § 80.1426(f)(12).

The information proposed to be submitted under § 80.1450(b)(1)(iv)(A) and (b)(1)(iv)(B) would also help EPA in our evaluation of the engineering review that is conducted and submitted by an independent third party engineer pursuant to § 80.1450(b)(2). Since the requirements for the process heat fuel supply plan would be revised and relocated within the regulations under the proposed amendments, the requirements stipulated in the original § 80.1450(b)(3)(ii) through (iv) would be deleted to avoid redundancy.

#### *K. Updating Registration To Account for Facility Changes Not Affecting the Renewable Fuel Category*

Section 80.1450(d)(2) currently requires producers of renewable fuel to update their facility registration seven (7) days prior to any change to the facility that does not affect the renewable fuel category for which the producer is registered. EPA is proposing to revise § 80.1450(d)(2) to narrow the scope of changes that would require a producer to update their registration. The revisions would clarify that not just any change, but only changes to the facility that actually affect the information submitted to EPA in the producer’s original registration, would trigger such a registration update.

#### *L. Applicability of the Renewable Biomass Aggregate Compliance Approach*

Sections 80.1451 and 80.1454 include requirements for renewable fuel producers to report and maintain records to affirm that their feedstocks

meet the definition of renewable biomass and come from qualifying land. Through proposed amendments to these two sections, EPA would clarify our intent, as discussed in the preamble to the final RFS2 regulations, that producers, either domestic or foreign, who use crops and crop residue from existing U.S. agricultural land be covered by the renewable biomass aggregate compliance approach for those particular feedstocks, as described in § 80.1454(g), and need not keep detailed records or report to EPA concerning whether those particular feedstocks meet the definition of renewable biomass. However, if a producer (domestic or foreign) uses any type of feedstock other than crops and crop residue from existing U.S. agricultural land, then he or she must keep records and report to EPA to demonstrate that their feedstocks meet the definition of renewable biomass. This would include maintaining records that show that the feedstock type is one allowed under the renewable biomass definition under the RFS2 regulations and that the feedstock is harvested from qualifying lands, where applicable.

*M. Additional Recordkeeping Requirements for Renewable Fuel Producers Using Separated Yard and Food Waste as a Feedstock*

Section 80.1454(d)(3) currently requires that domestic renewable fuel producers using feedstock other than planted trees or tree residue from actively managed tree plantations, slash or pre-commercial thinnings from non-federal forestland, biomass from areas at risk of wildfire, crops or crop residue covered by the aggregate compliance approach under § 80.1454(g), or any feedstock covered by an alternative biomass tracking approach under § 80.1454(h) must maintain documents from their feedstock supplier certifying that their feedstocks meet the definition of renewable biomass. While separated yard and food waste falls into this category, parties using these feedstocks are also subject to the additional recordkeeping requirements in § 80.1454(j). Therefore, EPA is proposing to revise § 80.1454(d)(3) to clarify that renewable fuel producers that use separated yard and food waste as a feedstock are subject to the additional requirements in § 80.1454(j).

**V. Statutory and Executive Order Reviews**

*A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency

must determine whether the regulatory action is “significant” and therefore subject to OMB review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a “significant regulatory action” under the terms of Executive Order 12866 and is therefore not subject to OMB review.

*B. Paperwork Reduction Act*

This action does not impose any new information collection burden. The corrections, clarifications, and modifications to the final RFS2 regulations contained in this rule are within the scope of the information collection requirements submitted to the Office of Management and Budget (OMB) for the final RFS2 regulations. OMB has partially approved the information collection requirements contained in the existing regulations at 40 CFR part 80, subpart M under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0637. The remaining RFS2 information collection requirements are currently pending approval at OMB (EPA ICR No. 2333.02). The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small

organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this proposal will not have a significant economic impact on a substantial number of small entities. This proposal will not impose any requirements on small entities that were not already considered under the final RFS2 regulations, as it makes relatively minor corrections and modifications to those regulations. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

This proposal does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. We have determined that this action will not result in expenditures of \$100 million or more for the above parties and thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This proposal is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. It only applies to gasoline, diesel, and renewable fuel producers, importers, distributors and marketers and makes relatively minor corrections and modifications to the RFS2 regulations.

*E. Executive Order 13132 (Federalism)*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action only applies to gasoline, diesel, and renewable fuel producers, importers, distributors and marketers and makes relatively minor corrections and

modifications to the RFS2 regulations. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

*F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This proposal does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It applies to gasoline, diesel, and renewable fuel producers, importers, distributors and marketers. This action makes relatively minor corrections and modifications to the RFS regulations, and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this action. Nonetheless, EPA specifically solicits additional comment on this proposed action from tribal officials.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This proposal is not subject to Executive Order 13211 (66 FR 18355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal

executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposal will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. These proposed amendments would not relax the control measures on sources regulated by the RFS regulations and therefore would not cause emissions increases from these sources.

**List of Subjects in 40 CFR Part 80**

Environmental protection, Administrative practice and procedure, Agriculture, Air pollution control, Confidential business information, Diesel Fuel, Energy, Forest and forest products, Fuel additives, Gasoline, Imports, Motor vehicle pollution, Penalties, Petroleum, Reporting and recordkeeping requirements.

Dated: April 30, 2010.

**Lisa P. Jackson,**  
Administrator.

[FR Doc. 2010–10854 Filed 5–7–10; 8:45 am]

**BILLING CODE 6560–50–P**